

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MECCATECH, INC.,

Plaintiff,

V.

**CLAUDIA KISER, SARAH
SHEPHERD, PAT BARIL, STRATEGIC
GOVERNMENTAL SOLUTIONS, INC.,
GARY LANGE, JOSEPH J. O'HARA,
and EDUCATIONAL SERVICES &
PRODUCTS, LLC,**

Defendants.

CASE NO. 8:05CV570

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff MeccaTech, Inc.'s Motion to Extend Preliminary Injunction (Filing No. 523) and the Stipulation to Extend Preliminary Injunction (Filing No. 529). On October 8, 2008, the Court entered a Preliminary Injunction enjoining Defendants Patrick Baril, Joseph O'Hara, Gary Lange, Claudia Kiser, and Sarah Shepherd (collectively "Defendants"), and any and all third parties in active concert with the Defendants, from directly, or indirectly, for themselves or on behalf of others, communicating with, or providing Medicaid administrative claiming services to any Nebraska school or Educational Service Unit. (Filing No. 467). The preliminary injunction was set to expire on October 8, 2009. On October 7, 2009, MeccaTech filed its motion asking the Court to extend the preliminary injunction as to Sarah Shepherd, Pat Baril, and Joseph J. O'Hara.¹

¹ The claims against Claudia Kiser were settled and have been dismissed, with the exception of MeccaTech's claim for injunctive relief, which is addressed separately from the other defendants, in Filing No. 500. MeccaTech does not seek to extend the preliminary injunction against Gary Lange.

On November 19, 2009, MeccaTech, Sarah Shepherd, and Pat Baril filed a Stipulation in which Shepherd and Baril state that they do not oppose the extension of the preliminary injunction until and up to October 8, 2010. (Filing No. 529). Furthermore, MeccaTech states that it agrees that Shepherd's current employment with Prevent Blindness Nebraska is permissible under the terms of the Preliminary Injunction. (*Id.*). Defendant Joseph J. O'Hara did not respond to MeccaTech's motion.

The Court finds repetition of the facts unnecessary. For a detailed factual background of this case, the Court refers the reader to the lengthy recitation contained in the Court's April 15, 2008, Memorandum and Order (Filing No. 417).

In support of its motion to extend, MeccaTech has submitted printouts from the website of Accelify, LLC ("Accelify"), which appears to be the successor to Defendant Educational Services and Products, LLC ("ESP"). (Filing No. 524). According to the information on its website, Accelify is operating in Nebraska and offers Medicaid claiming services to school districts in Nebraska. (*Id.*)

In its October 8, 2008, Memorandum and Order, the Court carefully considered the required *Dataphase*² elements in finding that an injunction was warranted in favor of MeccaTech. (Filing No. 467). MeccaTech has shown good cause why the terms of the preliminary injunction should be extended. Shepherd and Baril have stipulated that they do not oppose the requested extension and O'Hara has failed to respond to MeccaTech's motion. Accordingly, I conclude that an extension of the terms of the preliminary injunction is warranted.

²*Dataphase Systems, Inc. v. C.L. Sys. Inc.*, 640 F.2d 109, 114 (8th Cir. 1981) (*en banc*).

IT IS HEREBY ORDERED:

1. Plaintiff MeccaTech, Inc.'s Motion to Extend Preliminary Injunction (Filing No. 523) is granted;
2. The Stipulation filed by MeccaTech and Defendants Sarah Shepherd and Pat Baril (Filing No. 529) is approved;
3. The Preliminary Injunction granted by the Court in Filing No. 467 is extended with respect to Defendants Sarah Shepherd, Pat Baril, and Joseph J. O'Hara, until October 8, 2010, specifically:
 - a. Defendants Patrick Baril, Joseph O'Hara, and Sarah Shepherd (collectively "Defendants"), and any and all third parties in active concert with the Defendants, are restrained from directly, or indirectly, for themselves or on behalf of others, communicating with, or providing Medicaid administrative claiming services, document storage or retrieval services, or direct services billing to any Nebraska school or Educational Service Unit;
 - b. Defendant Sarah Shepherd shall be allowed to communicate with Nebraska school districts and/or ESUs for the limited purpose of obtaining job-related references or referrals, or seeking direct employment, as long as that direct employment is in a capacity unrelated to Medicaid Administrative Claiming or any other area in which MeccaTech provides services; and
4. In addition to the service via the CM/ECF system, the Clerk of the Court shall send a copy of this Order via email and first-class mail to Joseph J. O'Hara at the following addresses:

19 Dove Street Suite 104
Albany, NY 12210-1346
jjohara@espllc.com
TOGALawFirm@aol.com

DATED this 2nd day of December 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge